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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/728,520  | 12/04/2003  | Carol I. DelGaudio   | END920030115US1<br>(17050)   | 9144                   |
| 23389 7590 03/18/2008<br>SCULLY SCOTT MURPHY & PRESSER, PC<br>400 GARDEN CITY PLAZA<br>SUITE 300<br>GARDEN CITY, NY 11530 |             |                      | EXAMINER<br>MALONE, STEVEN J |                        |
|   |             |                      | ART UNIT<br>3687             | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>03/18/2008      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/728,520 | <b>Applicant(s)</b><br>DELGAUDIO ET AL. |  |
|                              | <b>Examiner</b><br>STEVEN J. MALONE  | <b>Art Unit</b><br>3687                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/04/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |



### DETAILED ACTION

1. This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-17, as originally filed, are currently pending and have been considered below.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. **Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Guheen et al. (6,615,166).**

**As per claims 1, 7, and 13**, Guheen et al. teaches a method of enterprise-wide migration, comprising the steps of:

creating instances of databases for a migration (See col. 9 at lines 2-25, via database entries created for analysis of migration needs), for billing and reporting (See col. 138 at lines 35-40, via billing and accounting modules), and repositing reports (See col. 44 at lines 1-30, via a repository manager);

gathering information on the organization, location, hardware, and software affected by said migration into a database for planning said migration (See Figure 1B, via presenting a pictorial representation of the existing network framework including a plurality of components);



building an inventory of the affected hardware and software using an inventory tracking tool or an inventory mailer (See Figure 1C, via indicia coding the components of the system in order to indicate required components for the implementation of the system);

ordering migration hardware and software based on said planning and said inventory, using an inventory tool (See col. 164 at lines 1-8, via procurement of hardware and software needed for system implementation while logging all assets into inventory as they are received);

tracking and billing labor, hardware, and software as installed, using said billing and reporting database (See col. 138 at lines 35-45, via billing and accounting); and

wherein agents for said creating, gathering, building and tracking are enabled using an agent control facility (See col. 134 at lines 57-67, via event data generation agents for gathering management information).

**As per claims 2, 8, and 14,** Guheen et al. teaches wherein said database for planning includes one entry for each device affected by the migration (See col. 109 at lines 38-43, via eliminating double entry of repository information).

**As per claims 3, 9, and 15,** Guheen et al. teaches a further step of transmitting the built inventory into the database for planning (See col. 9 at lines 1-10, via a database which includes all required components of the system).

**As per claims 4, 10, and 16,** Guheen et al. teaches wherein agents are enabled for all of said created instances (See col. 8 at lines 20-48, via determining whether and how many vendors supply services to each particular component).



**As per claims 5, and 11**, Guheen et al. teaches wherein the agent control facility includes an agent control database (See col. 14 at lines 44-67, via product1 command center).

**As per claims 6, and 12**, Guheen et al. teaches wherein the agent control database performs the agent executions (See col. 14 at lines 44-67, via product1 command center).

**As per claims 17**, Guheen et al. teaches wherein the agent control facility includes an agent control database, and the agent control database performs the agent executions (See col. 14 at lines 44-67, via product1 command center).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pastilha et al. (5,678,044) teaches a system and method for improved rehosting of software systems.

Bell et al. (2003/0130980) teaches an efficient configuration data migration technique.

Mackin et al. (6,728,877) teaches a method and system for automatically transitioning of configuration settings among computer systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. MALONE whose telephone number is



Art Unit: 3687

(571)270-5107. The examiner can normally be reached on Monday-Thursday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
Unit 3687

SM